



California Regional Water Quality Control Board

San Diego Region



Linda S. Adams
Secretary for
Environmental Protection

Over 50 Years Serving San Diego, Orange, and Riverside Counties
Recipient of the 2004 Environmental Award for Outstanding Achievement from USEPA

Arnold Schwarzenegger
Governor

9174 Sky Park Court, Suite 100, San Diego, California 92123-4353
(858) 467-2952 • Fax (858) 571-6972
<http://www.waterboards.ca.gov/sandiego>

October 1, 2009

Certified Mail – Return Receipt Requested
Article Number: 7009 1410 0002 2347 6194

Bob Kyle
San Diego Yacht Club
1011 Anchorage Lane
San Diego, CA 92106

In reply refer to:
739284: jebsen

Dear Name: Mr. Kyle

Subject: Action on Request for Clean Water Act Section 401 Water Quality Certification for the San Diego Yacht Club Repair Project, Certification No. 09C-045

Enclosed find Clean Water Act Section 401 Water Quality Certification (Certification) with acknowledgment of enrollment under State Water Resources Control Board Order No. 2003-017 DWQ for Statewide General Waste Discharge Requirements for Dredged or Fill Discharges that have received State Water Quality Certification for the San Diego Yacht Club Repair Project. A description of the project and location can be found in the project information sheet and on location and site maps compiled by the California Regional Water Quality Control Board, San Diego Region (Regional Board), which are included as Attachments 1 through 4.

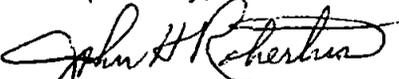
Any petition for reconsideration of this Certification must be filed with the State Water Resources Control Board within 30 days of certification action (23 CCR § 3867). If no petition is received, it will be assumed that you have accepted and will comply with all the conditions of this Certification.

Failure to comply with all conditions of this Certification may subject you to enforcement actions by the California Regional Water Quality Control Board, San Diego Region, including administrative enforcement orders requiring you to cease and desist from violations, or to clean up waste and abate existing or threatened conditions of pollution or nuisance; administrative civil liability in amounts of up to \$10,000 per day per violation; referral to the State Attorney General for injunctive relief; and, referral to the District Attorney for criminal prosecution.

California Environmental Protection Agency

In the subject line of any response, please include the requested "In reply refer to:" information located in the heading of this letter. For questions pertaining to the subject matter, please contact Jody Ebsen at (858) 636-3146 or jebsen@waterboards.ca.gov.

Respectfully,


JOHN H. ROBERTUS
Executive Officer

Enclosures:

Clean Water Act Section 401 Water Quality Certification No. 09C-045 for San Diego Yacht Club Repair project, with 4 attachments

cc: Refer to Attachment 2 of Certification 09C-045 for Distribution List.

Tech Staff Info & Use	
File No.	09C-045
WDID	9000001936
Reg. Measure ID	366831
Place ID	739284
Party ID	510239



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(858) 467-2952 • Fax (858) 571-6972
[http:// www.waterboards.ca.gov/sandiego](http://www.waterboards.ca.gov/sandiego)

Action on Request for Clean Water Act Section 401 Water Quality Certification and Waste Discharge Requirements for Discharge of Dredged and/or Fill Materials

PROJECT: San Diego Yacht Club Repair Project, Certification Number
09C-045, WDID 9000001936

APPLICANT: Bob Kyle
San Diego Yacht Club
1011 Anchorage Lane
San Diego, CA 92106

CIWQS Reg. Meas. ID: 366831 Place ID: 739284 Party ID: 510239
--

ACTION:

<input type="checkbox"/> Order for Low Impact Certification	<input type="checkbox"/> Order for Denial of Certification
<input checked="" type="checkbox"/> Order for Technically-conditioned Certification	<input type="checkbox"/> Waiver of Waste Discharge Requirements
<input checked="" type="checkbox"/> Enrollment in SWRCB GWDR Order No. 2003-017 DWQ	<input type="checkbox"/> Enrollment in Isolated Waters Order No. 2004-004 DWQ

PROJECT DESCRIPTION:

The project is to repair the corroded sheet pile wall and steel H-piles at the San Diego Yacht Club in San Diego Bay. The sheet pile wall fronts the clubhouse and the H-piles support the clubhouse deck. Repairs will be done by encasing the existing steel sheet pile wall and 8 existing steel H-piles with concrete. The repairs will be performed from the water side, as there is no access from the land side.

STANDARD CONDITIONS:

The following three standard conditions apply to all Certification actions, except as noted under Condition 3 for denials (Action 3).

1. This Certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to section 13330 of the California Water Code and section 3867 of Title 23 of the California Code of Regulations (23 CCR).

California Environmental Protection Agency

The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our Web-site at <http://www.swrcb.ca.gov>.

Recycled Paper



2. This Certification action is not intended and must not be construed to apply to any discharge from any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent Certification application was filed pursuant to 23 CCR subsection 3855(b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
3. The validity of any non-denial Certification action (Actions 1 and 2) must be conditioned upon total payment of the full fee required under 23 CCR section 3833, unless otherwise stated in writing by the certifying agency.

ADDITIONAL CONDITIONS:

In addition to the three standard conditions, San Diego Yacht Club must satisfy the following:

A. GENERAL CONDITIONS:

1. This certification expires five years from the date of issuance.
2. San Diego Yacht Club must, at all times, fully comply with the engineering plans, specifications and technical reports submitted to the California Regional Water Quality Control Board, San Diego Region (Regional Board), to support this 401 Water Quality Certification (Certification) and all subsequent submittals required as part of this Certification and as described in Attachment 1. The conditions within this Certification must supersede conflicting provisions within such plans submitted prior to the Certification action. Any modifications thereto, would require notification to the Regional Board and reevaluation for individual Waste Discharge Requirements and/or Certification amendment.
3. During construction, San Diego Yacht Club must maintain a copy of this Certification at the project site so as to be available at all times to site personnel and agencies.
4. San Diego Yacht Club must permit the Regional Board or its authorized representative at all times, upon presentation of credentials:
 - a. Entry onto project premises, including all areas on which wetland fill or wetland mitigation is located or in which records are kept.
 - b. Access to copy any records required to be kept under the terms and conditions of this Certification.
 - c. Inspection of any treatment equipment, monitoring equipment, or monitoring method required by this Certification.
 - d. Sampling of any discharge or surface water covered by this Order.

5. San Diego Yacht Club notify the Regional Board within 24 hours of any unauthorized discharge, including hazardous or toxic materials, to waters of the U.S. and/or State; measures that were implemented to stop and contain the discharge; measures implemented to clean-up the discharge; the volume and type of materials discharged and recovered; and additional best management practice (BMPs) or other measures that will be implemented to prevent future discharges.
6. San Diego Yacht Club must, at all times, maintain appropriate types and sufficient quantities of materials onsite to contain any spill or inadvertent release of materials that may cause a condition of pollution or nuisance if the materials reach waters of the U.S. and/or State.
7. This Certification is not transferable in its entirety or in part to any person except after notice to the Executive Officer of the Regional Board in accordance with the following terms.
 - a. Transfer of Property Ownership: San Diego Yacht Club must notify the Regional Board of any change in ownership of the project area. Notification of change in ownership must include, but not be limited to, a statement that San Diego Yacht Club has provided the purchaser with a copy of the Section 401 Water Quality Certification and that the purchaser understands and accepts the certification requirements and the obligation to implement them or be subject to liability for failure to do so; the seller and purchaser must sign and date the notification and provide such notification to the Executive officer of the Regional Board within **10 days** of the transfer of ownership.
 - b. Transfer of Mitigation Responsibility: Any notification of transfer of responsibilities to satisfy the mitigation requirements set forth in San Diego Yacht Club shall include a signed statement from an authorized representative of the new party (transferee) demonstrating acceptance and understanding of the responsibility to comply with and fully satisfy the mitigation conditions and agreement that failure to comply with the mitigation conditions and associated requirements may subject the transferee to enforcement by the Regional Board under Water Code section 13385, subdivision (a). Notification of transfer of responsibilities meeting the above conditions must be provided to the Regional Board within **10 days** of the transfer date.
8. In the event of any violation or threatened violation of the conditions of this Certification, the violation or threatened violation must be subject to any remedies, penalties, process or sanctions as provided for under State law. For purposes of section 401(d) of the Clean Water Act, the applicability of any State law authorizing remedies, penalties, process or sanctions for the

violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this Certification.

9. In response to a suspected violation of any condition of this Certification, the Regional Board may require the holder of any permit or license subject to this Certification to furnish, under penalty of perjury, any technical or monitoring reports the Regional Board deems appropriate, provided that the burden, including costs, of the reports must bear a reasonable relationship to the need for the reports and the benefits to be obtained from the reports.
10. In response to any violation of the conditions of this Certification, the Regional Board may add to or modify the conditions of this Certification as appropriate to ensure compliance.
11. San Diego Yacht Club and successor owners must submit annual progressive reports to the Regional Board prior to **August 1** of each year following the issuance of this Certification until the project has reached completion.

B. PROJECT CONDITIONS:

1. Prior to the start of the project, and annually thereafter, San Diego Yacht Club must educate all personnel on the requirements in this Certification, pollution prevention measures, spill response, and BMP implementation and maintenance.
2. San Diego Yacht Club must comply with the requirements of State Water Resources Control Board Water Quality Order No. 2003-0017-DWQ, Statewide General Waste Discharge Requirements for discharges of dredged or fill material that has received State Water Quality Certification. These General Waste Discharge Requirement are accessible at:
http://www.waterboards.ca.gov/cwa401/docs/generalorders/go_wdr401regulated_projects.pdf.
3. San Diego Yacht Club must notify the Regional Board in writing at least 5 days prior to the actual commencement of dredge, fill, and discharge activities.
4. The treatment, storage, and disposal of wastewater during the life of the project must be done in accordance with waste discharge requirements established by the Regional Board pursuant to CWC § 13260.
5. Water containing mud, silt, or other pollutants from equipment washing or other activities, must not be discharged to waters of the United States and/or the State or placed in locations that may be subjected to storm flows.

6. Substances hazardous to aquatic life including, but not limited to, petroleum products, raw cement/concrete, asphalt, and coating materials, must be prevented from contaminating the soil and/or entering waters of the United States and/or State. BMPs must be implemented to prevent such discharges during each project activity involving hazardous materials.

C. COMPENSATORY MITIGATION FOR LOSS OF WATERS OF THE U.S./STATE

1. Mitigation for permanent discharges to 0.006 acres (294 linear feet) must be achieved by the construction of 176 square feet of fish habitat structures for the sheet pile wall repair and up to an additional 24 square feet of fish habitat structures for the H-pile repairs. The fish habitat structure will be approximately 2ft wide x 100 ft long, fronting the western sheet pile wall under the clubhouse deck.
2. San Diego Yacht Club must minimize temporary disturbances which could result in a discharge or a threatened discharge to waters of the United States/State. San Diego Yacht Club must implement all necessary BMPs associated with this project, including but not limited to the BMPs identified in the CEQA Determination (Port of San Diego, August 20, 2009).
3. San Diego Yacht Club must notify the Regional Board in writing at least 5 days prior to the actual commencement of mitigation installation, and completion of mitigation installation.
4. San Diego Yacht Club must submit a report to the Regional Board within 90 days of completion of mitigation site describing as-built status of the mitigation project.
5. The construction of proposed mitigation must be concurrent with project grading and completed no later than 9 months following the initial discharge of dredge or fill material into on-site waters. Delays in implementing mitigation must be compensated for by an increased mitigation implementation of 10% of the cumulative compensatory mitigation for each month of delay.
6. Regional Board acceptance of the final mitigation plan applies only to the site and plan that mitigates for the San Diego Yacht Club Repair Project and must not be construed as approval of the mitigation site or plan for use by other current or future projects that are planning to use the San Diego Yacht Club site for mitigation.

D. BAY PHOTO DOCUMENTATION PROCEDURE

1. San Diego Yacht Club must conduct photo documentation of the project site , including all areas of impact, prior to, during and after project construction and

the mitigation site. The photo documentation must be included in the final report.

E. REPORTING:

1. All information requested in this Certification is pursuant to California Water Code (CWC) section 13267. Civil liability may be administratively imposed by the Regional Board for failure to furnish requested information pursuant to CWC section 13268.
2. All reports and information submitted to the Regional Board must be submitted in both hardcopy and electronic format. The preferred electronic format for each report submission is one file in PDF format that is also Optical Character Recognition (OCR) capable.
3. San Diego Yacht Club must submit a final report to the Regional Board within 30 days of completion of the project. The report should include as-built drawings no bigger than 11" x 17" and photo documentation of the completed project.
4. All applications, reports, or information submitted to the Regional Board must be signed and certified as follows:
 - a. For a corporation, by a responsible corporate officer of at least the level of vice president.
 - b. For a partnership or sole proprietorship, by a general partner or proprietor, respectively.
 - c. For a municipality, or a state, federal, or other public agency, by either a principal executive officer or ranking elected official.
5. A duly authorized representative of a person designated in Items 4.a. through 4.c. above may sign documents if:
 - a. The authorization is made in writing by a person described in Items 4.a. through 4.c. above.
 - b. The authorization specifies either an individual or position having responsibility for the overall operation of the regulated activity.
 - c. The written authorization is submitted to the Regional Board Executive Officer.
6. All applications, reports, or information submitted to the Regional Board must be signed and certified as follows:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for

obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

7. San Diego Yacht Club must submit reports required under this Certification, or other information required by the Regional Board, to:

Executive Officer
California Regional Water Quality Control Board
San Diego Region
Attn: 401 Certification; Project No. 09C-045
9174 Sky Park Court, Suite 100
San Diego, California 92123

6. Required Reports: The following list summarizes the reports, excluding spill notifications and emergency situations, required per the conditions of this Certification to be submitted to the Regional Board.

Report Topic	Certification Condition	Due Date(s)
Notification	B3	At least 5 days prior to actual commencement of dredge, fill and discharge activities.
Notification	C3	At least 5 days prior to actual commencement of mitigation installation.
Mitigation Report	C4	Within 90 days of completion of mitigation installation.
Final Report	E3	Within 30 days of project completion.

PUBLIC NOTIFICATION OF PROJECT APPLICATION:

On June 15, 2009 receipt of the project application was posted on the Regional Board web site to serve as appropriate notification to the public.

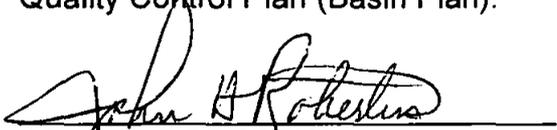
REGIONAL WATER QUALITY CONTROL BOARD CONTACT PERSON:

Jody Ebsen
California Regional Water Quality Control Board, San Diego Region
9174 Sky Park Court, Suite 100
San Diego, CA 92123
858-636-3146
Jebsen@waterboards.ca.gov

WATER QUALITY CERTIFICATION:

I hereby certify that the proposed discharge from San Diego Yacht Club (No. 09C-045) will comply with the applicable provisions of sections 301 ("Effluent Limitations"), 302 ("Water Quality Related Effluent Limitations"), 303 ("Water Quality Standards and Implementation Plans"), 306 ("National Standards of Performance"), and 307 ("Toxic and Pretreatment Effluent Standards") of the Clean Water Act. This discharge is also regulated under State Water Board Order No. 2003-0017-DWQ, "Statewide General Waste Discharge Requirements for Dredged or Fill Discharges that have Received State Water Quality Certification (General WDRs)," which requires compliance with all conditions of this Water Quality Certification. Please note that enrollment under Order No. 2003-017 DWQ is conditional and, should new information come to our attention that indicates a water quality problem, the Regional Board may issue waste discharge requirements at that time.

Except insofar as may be modified by any preceding conditions, all Certification actions are contingent on (a) the discharge being limited and all proposed mitigation being completed in strict compliance with the applicants' project description and/or on the attached Project Information Sheet, and (b) on compliance with all applicable requirements of the Regional Board's Water Quality Control Plan (Basin Plan).


JOHN H. ROBERTUS
Executive Officer
Regional Water Quality Control Board

1 October, 2009
Date

- Attachments:
1. Project Information
 2. Distribution List
 3. Location Map
 4. Site and Mitigation Map

**ATTACHMENT 1
PROJECT INFORMATION**

Applicant: ✓ Bob Kyle
 ✓ San Diego Yacht Club
 1011 Anchorage Lane
 San Diego, CA 92106
 Telephone: 619-758-6304
 Email: bob@sdyc.org

Applicant Representatives: ✓ Anne-Lise Lindquist
 ✓ Moffatt & Nichol, Blaylock
 1660 Hotel Circle North, Suite 500
 Telephone: 619-220-6050
 Facsimile: 619-220-6055
 Email: alindquist@moffattnichol.com

Project Name: ✓ San Diego Yacht Club Repair Project

Project Location: ✓ 1011 Anchorage Lane, San Diego
 ✓ Latitude: 32° 43' 04 46" N Longitude: 117° 13' 45 20" W

Type of Project: ✓ Bulkhead and pile repairs.

Need for Project: ✓ Repairs will be done on existing steel sheet pile and steel H-piles that have severe corrosion above +2ft MLLW, which surround the clubhouse and support the deck.

Project Description: ✓ Repairs will be done by encasing the existing steel sheet pile wall and encasing 8 existing steel H-piles with concrete. The repairs will be performed from the water side, as there is no access from the land side.

Federal Agency/Permit: U.S. Army Corps of Engineers §404 NWP 3, Robert Smith.

Other Required Regulatory Approvals: ✓ Coastal Development Permit, Categorical Determination – Excluded, Port of San Diego, August 20, 2009.

California Environmental Quality Act (CEQA) Compliance: ✓ CEQA Determination Regarding the San Diego Yacht Club H-Pile and Sheet Pile Wall Repairs, Port of San Diego August 20, 2009.

Receiving Water: ✓ Northwest San Diego Bay

Affected Waters of the United States: ✓ Permanent: 0.006 acres (294 linear feet) Ocean

Compensatory Mitigation: ✓ Construction of 176 square feet of fish habitat structures for the sheet pile wall repair and up to an additional 24 square feet of fish habitat structures for the H-pile repairs.

Mitigation Location: Fish structures, approximately 2ft. wide x 100ft long, will be constructed under the existing clubhouse deck in front of the sheet pile wall.

Best Management Practices (BMPs): Commence construction outside of the California least tern breeding season (September 15-April 15), use of surface-to-bottom turbidity curtain around construction, and debris removal for upland disposal (CEQA Determination, Port of San Diego, August 20, 2009).

Public Notice: On June 15, 2009 receipt of the project application was posted on the Regional Board web site to serve as appropriate notification to the public.

Fees: Total Due: \$2,552.00
Total Paid: \$2,552.00 (check No. 9405)

CIWQS: Regulatory Measure ID: 366831
Place ID: 739284
Party ID: 510239

**ATTACHMENT 2
DISTRIBUTION LIST**

Mr. Robert Smith
U.S. Army Corps of Engineers, Regulatory Branch
San Diego Field Office
6010 Hidden Valley Rd, Ste 105
Carlsbad, California 92011

Cc via email:

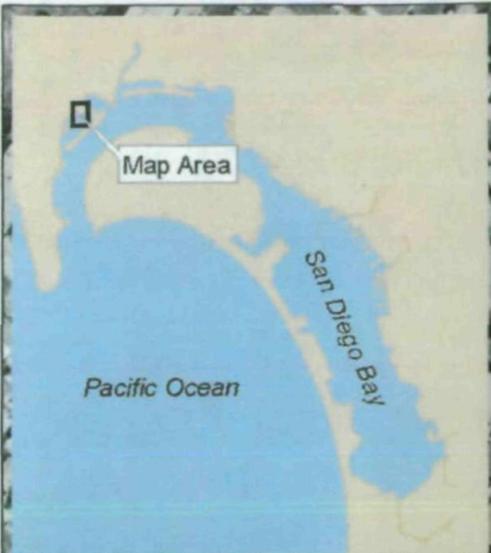
State Water Resources Control Board, Division of Water Quality
401 Water Quality Certification and Wetlands Unit
Stateboard401@waterboards.ca.gov

U.S. Environmental Protection Agency, Region 9
Wetlands Regulatory Office
R9-WTR8-Mailbox@epa.gov

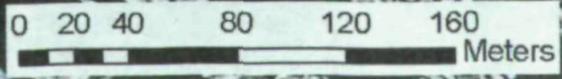
Kathleen Brubaker
U.S. Department of the Interior
Fish and Wildlife Service
kathleen_brubaker@fws.gov

David Zoutendyk
U.S. Department of the Interior
Fish and Wildlife Service
david_zoutendyk@fws.gov

Attachment 3 Location Map



Eelgrass



**Attachment 4
Site and
Mitigation Map**

**San Diego Yacht Club
Clubhouse**

**Clubhouse
Deck**

Approximate Location of
Fish Habitat Mitigation Area
2 ft x 100 ft Max

CONCRETE PILE CAP
DEMOLISH & REPAIR
PER FIGURE 3A OR 3B
TYPICAL AT ALL
EXPOSED SHEET PILING

STEEL SHEET PILE
ENCASEMENT REPAIR
PER FIGURE 3A OR 3B
TYPICAL ALL EXPOSED
SHEET PILING

STEEL H-PILE
ENCASEMENT REPAIR
PER FIGURE 2
TYPICAL ALL 8 PILES

12" SQUARE
PRESTRESSED
CONC PILES
TYPICAL

PMA 22 PDA 27

STA 0+00 -4.0' -2.0' -2.6' -2.7' -2.7' -3.2' -4.2' -4.4' STA 1+02

DECK PLAN
1"=20'



NOTE: DEPTHS
INDICATED ARE
M.L.L.W. DATUM
TYPICAL



**CLUBHOUSE BULKHEAD AND H-PILE
REPAIR RECOMMENDATIONS**

MARCH 2009

FIGURE 1

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT OF THE RETURN ADDRESS, FOLD AT DOTTED LINE
CERTIFIED MAIL™



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 7009 1410 0002 2347 6194

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OFFICIAL USE

Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$

Postmark Here

Sent To **Bob Kyle, SAN DIEGO YACHT CLUB**
 Street, Apt. No., or PO Box No. **1011 ANCHORAGE LANE**
 City, State, ZIP+4 **SAN DIEGO CA 92106**
 PS Form 3800, August 2006 See Reverse for Instructions

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:
BOB KYLE
SAN DIEGO YACHT CLUB
1011 ANCHORAGE LANE
SAN DIEGO CA 92106

COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent
X Addressee

B. Received by (Printed Name) C. Date of Delivery

D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

2. Article Number
 (Transfer from service label)

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